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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,301	09/30/2003	Jack A. McClure	25106	8163
28624	7590	10/05/2005		
WEYERHAEUSER COMPANY INTELLECTUAL PROPERTY DEPT., CH 1J27 P.O. BOX 9777 FEDERAL WAY, WA 98063			EXAMINER ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,301

Applicant(s)

MCCLURE, JACK A.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-7,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by McClure '377. McClure '377 discloses a blank including a top panel flap 52, a first corner panel 66, a second corner panel 68 and a third corner panel 70. The third corner panel includes cutouts 84 and the portion cutout to form the tab 52, both of which extend to the free end of the third corner panel as claimed.

3. Claims 1, 2, 5-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by McClure '020. With respect to claims 1, 2 and 5, McClure '020 discloses a blank including a top panel flap 28, a first corner panel 70, a second corner panel 72 and a third corner panel 74. The third corner panel 74 includes cutouts 30, 78, each of which extends to a free end of the third corner panel as claimed. With respect to claims 6, 7 and 9, McClure '020 discloses a container including a third corner panel 74 with a cutout 78 which, as shown in fig. 4, forms a top edge that is below a top edge of the end panel 22 in the region of the third corner panel cutout, i.e. below the top edge of the end panel 22 adjacent the cutout 66.

4. Claims 1, 2, 5-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by either Muise or Osborne. With respect to claims 1, 2 and 5, each of Muise and Osborne discloses a blank including a top panel flap (projection adjacent slot 60; 44, respectively), first

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corner panel (36, 28, respectively), second corner panel (44, 32, respectively) and a third corner panel (46, 34, respectively). The third corner panel in each of Muise and Osborne includes cutouts, i.e. the cutout formed by the top flap, cutout 48, 38, respectively, and with respect to the Muise, the cutout between the portion 4 and the end of the third corner panel 46. Each of the cutouts extends to a free end of the third corner panel as claimed. With respect to claims 6, 7, 9 and 10, the third corner panel in each reference includes a cutout (adjacent 54 to the end of the third corner panel 46; adjacent 40 at the top edge of the third corner panel 34, respectively) that is below a top edge of the end panel 20, 24, respectively in the region or adjacent to the third corner panel cutout, i.e. the top edge adjacent 54 in Muise and the top edge adjacent 40 in Osborne is below the end panel at 26 in Muise and 42 in Osborne. The top edges at 26 and 42 are considered to be within “the region of the corner third panel cut-out” as claimed. With respect to claim 10, note is made that the third corner panels in Muise and Osborne do not abut and therefor extend less than half of the width of the end panel as claimed.

Response to Arguments

5. Applicant's arguments filed 13 July 2005 have been fully considered but they are not persuasive.

The remarks assert that the patent to McClure '377 does not disclose a cutout within the third corner panel which extends to a free end of the corner third panel as set forth in claim 1. The remarks further assert that because McClure '377 teaches using an adhesive to attach the tabs 50, 52 to outside surface of the end walls, McClure '377 does not disclose a cutout to do so. In response, as indicated above, McClure '377 is considered to clearly evidence two different cutouts in the third corner panel which extend to a free end of the third corner panel irregardless

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of how the tabs 50, 52 are attached in the container. Claims 1, 2 and 5 are considered to be clearly met by the disclosure of McClure '377.

The remarks further assert that the patent to McClure '020 does not disclose a cutout within the third corner panel which extends to a free end of the third corner panel in the blank as set forth in claim 1 or forms a top edge that is below a top edge of the end panel in the region of the third corner panel cutout in the container as set forth in claim 6. In response, with respect to claims 1, 2 and 5, McClure '020 discloses cutouts 30, 78 which extend in the blank to the free end of the third corner panel. It is noted that the free end of the third corner panel is considered to include the end area of the corner panel which includes the end edges around the area and is not considered to be limited to a particular edge is apparently being asserted in the remarks. It is noted, however, that the cutout 30 is formed at the end edge, even though ---end edge--- is not being claimed. With respect to claims 6, 7 and 9, the cutout 78 in McClure '020 is considered to form a top edge as claimed.

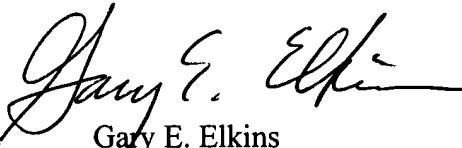
Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
30 September 2005